


AN ORDINANCE



04-0 -0500

BY COUNCILMEMBER CEASAR C. MITCHELL

**AN ORDINANCE TO AMEND ARTICLE XXIII OF
THE CITY OF ATLANTA CODE OF
ORDINANCES, VENDING ON PUBLIC
PROPERTY, SPECIFICALLY SECTIONS 30-1402,
30-1403, 30-1405, 30-1409, 30-1426, 30-1428, 30-1429,
30-1430, AND 30-1431; AND FOR OTHER
PURPOSES.**

WHEREAS, the City has the responsibility to regulate, and prohibit any act, practice, conduct, or use of property which is detrimental, or likely to be detrimental, to the health, sanitation, cleanliness, welfare, and safety of the inhabitants of the city and to provide for the enforcement of such standards; and

WHEREAS, the City has the power to make, ordain, and establish such bylaws, ordinances, rules, and regulations as shall appear necessary for the security, welfare, convenience, and interest of the city and the inhabitants thereof and for preserving the health, peace, order, and good government of the city; and

WHEREAS, pursuant to its police powers, the City of Atlanta is authorized to enact legislation to regulate certain types of businesses and industries which could potentially affect the public health, safety and welfare, including vending in the public right-of-way.

WHEREAS, an evaluation of current vending laws has been conducted by an advisory group, which included representatives of all stakeholders; and

WHEREAS, the City of Atlanta has been and continues to be a burgeoning international city and destination for visitors from throughout the region, nation and world and a well organized vending program will add positive value to the city; and

WHEREAS, it is the vision the City of Atlanta to create a financially self-sustaining vending program that promotes economic opportunities that are conducted in an aesthetically acceptable manner, which contribute to the vitality, safety and quality of the public environment.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE
CITY OF ATLANTA, GEORGIA:**

Section 1

That section 30-1402 be amended by deleting current section and inserting in lieu of the following:

Vision Statement:

The City of Atlanta seeks to create a financially self-sustaining vending program that promotes economic opportunities that are conducted in an aesthetically acceptable manner, which contribute to the vitality, safety and quality of the public environment.

It is the intent of the council in enacting this article to:

- (1) Serve and protect the health, safety and welfare of the general public;
- (2) Establish a uniform set of rules and regulations which are fair and equitable;
- (3) Develop a vending system ***and physical facilities*** which will enhance the overall appearance and environment along public streets, pedestrian ways and other public properties;
- (4) Provide economic development opportunities for small entrepreneurs in the city;
- (5) ***Promote a diversity*** of goods and services for sale ***while fostering harmony among local businesses***;
- (6) Promote stable vendors ***in appropriate locations*** who will enrich the city's ambiance and who will be assets to public ***safety and the city's good will***;
- (7) Provide a vending ***advisory commission that shall advise the mayor and city council on all issues relating to the vending industry, and hear appeals to permit application denials and vending permit suspension or revocations.***

Section 2

That section 30-1403 be amended by deleting current section and inserting in lieu of the following:

Sec. 30-1403. Vending ***Advisory Commission.***

- (a) The vending review board shall be composed of **eleven (11)** members nominated by the mayor and confirmed by the city council. The members of the board shall annually select a chair and a vice-chair from the membership of the ***commission.***
The mayor shall nominate the following:
 - (1) **One experienced food vendor.**
 - (2) **One experienced merchandise vendor.**
 - (3) **One representative of the Atlanta Convention and Visitors Bureau, Inc.**
 - (4) **One representative of Central Atlanta Progress, Inc.**
 - (5) **One representative of the downtown retail industry.**
 - (6) **One representative of the downtown retail food industry.**
 - (7) **One representative of the planning advisory board.**
 - (8) **One representative of MARTA**
 - (9) **Three citizens at large.**
- (b) The members of the board shall serve an initial term of two years, and **five** members shall serve an initial term of three years. The mayor shall determine the

length of each board member's initial term. After the initial term, all subsequent terms shall be for two years.

- (c) Members of the board shall not be compensated for their service.
- (d) The commission shall establish a monthly meeting time and place and shall publish in each quarter of every year a schedule of the meetings for that quarter of the year. Further, the board may call special meetings as it deems necessary. All such meetings shall be open to the public, and all votes of the board shall be announced in public session. The board shall adopt rules of procedure for the conduct of its meetings. Administrative and legal services as may be required by the board shall be furnished by appropriate departments and agencies of the city. The bureau of planning shall provide staff support for the board. Any vending review board member who misses two consecutive meetings of the board shall forfeit such member's position on the board. Such a member's unexpired term will be filled according to the procedure established pursuant to this section.
- (e) The commission shall advise the mayor and city council on all issues relating to the vending industry, including but not limited to the following:
 - (1) The types of products or services which may be vended on city property or public space;
 - (2) The design of the vending structure or station to be used at each vending site or location; and
 - (3) Operating rules and regulations to govern vending activities.
- (f) *The commission shall approve the merchandise, produce or service selection of all vendors.*
- (g) *The commission shall hear all appeals, and make recommendations to the mayor, from the denial, suspension or revocation of any application for a permit to vend or permit to vend in the public right-of way by the department of police licenses and permits section.*
- (h) *The commission shall submit an annual report to the mayor and city council discussing the state of vending in the public right of way.*

Section 3

That section 30-1405 be amended by deleting current section and inserting in lieu of the following:

- (a) The vending districts and locations are as follows:
 - (1) ~~District no. 1, Lindbergh. Locations 1-1 and 1-2. The northwest corner of Piedmont Road and Lindbergh Drive (two locations).~~

- (2) District no. 2, Midtown.
 - a. Locations 2-1 and 2-2. The south side of Tenth Street at Columbia (two locations).
 - b. Locations 2-3 and 2-4. The east side of Peachtree Street between 11th Street and 12th Street (two locations).
 - c. Locations 2-5 and 2-6. The south side of the MARTA station on Peachtree Place (two locations).

- (3) District no. 3, North Avenue/Civic Center.
 - a. Locations 3-1 and 3-2. The northwest corner of Peachtree Street and the northwest corner of West Peachtree Street (two locations).
 - b. Locations 3-3 and 3-4. The south side of Third Street between Peachtree Street and West Peachtree Street (two locations).
 - c. Locations 3-5 and 3-6. The northeast corner of West Peachtree Street and North Avenue (two locations), one on West Peachtree Street and one on North Avenue with both locations reserved for disabled individuals, disabled veterans or blind persons).
 - d. Locations 3-7 and 3-8. The east side of West Peachtree Street between Ralph McGill Boulevard and Pine Street (two locations).
 - ~~e. Location 3-9. The southwest corner of Peachtree Street and Third Street (one location).~~
 - ~~f. Location 3-10. The southeast corner of Ponce de Leon Avenue and West Peachtree Street (one location).~~
 - f. Locations 3-11 and 3-12. The northeast corner of Ponce de Leon and West Peachtree (two locations, one on West Peachtree and one on Ponce de Leon; one location reserved for a disabled individual, disabled veteran or blind person).
 - ~~h. Location 3-13. The southwest corner of West Peachtree and Ponce de Leon Avenue (one location).~~

- ~~(4) District no. 4, Ponce de Leon/Boulevard. Locations 4-1 and 4-2. The southeast corner of Ponce de Leon and Boulevard (two locations).~~

- (5) **District No. 5: Five Points**
 - a. **Locations 5-1, 5-2, 5-3, 5-4, 5-5, 5-6, 5-7, 5-8, 5-9, and 5-10 shall be located on Broad Street between Marietta Street and the Five Points MARTA Station property line (ten locations).**
 - b. **Locations 5-11 and 5-12 shall be located on the west side of Peachtree Street between Alabama Street and Wall Street (two locations, reserved for disabled individuals, disabled veterans or blind person).**
 - c. **Locations 5-13, 5-14, 5-15, and 5-16 shall be located at the southeast corner of Peachtree Street and Decatur Street (four locations)**

- d. **Locations 5-17, 5-18, and 5-19 shall be located at the northeast corner Peachtree Street NW and Edgewood Ave (three locations).**
- e. **Location 5-20 shall be located at the northwest corner of Park Place and Edgewood Avenue (one location). The specific location shall be designated by the Department of Planning and Community Development.**
- f. **Location 5-21, 5-22 and 5-23 shall be located at the north end of Woodruff Park (three locations).**
- g. **Locations 5-24, 5-25 and 5-26 shall be located on the north side of Auburn Ave. between Peachtree Street and Park Place.**
- h. **Locations 5-27, 5-28 and 5-29 shall be located on the southwest corner of Forsyth Street and Carnegie Way (three locations, one on Forsyth and two on Carnegie Way; includes one location reserved for a disabled individual, disabled veteran or blind person).**

(6) District no. 6, Stadium.

- a. **Locations ~~6-1~~, 6-1, 6-2, 6-3, 6-4, 6-5, 6-6, 6-7, 6-8 and 6-9.** The southwest corner of Capital Avenue between Fulton Street and the northern end of taxi stand area and the northwest corner of Capital Avenue between Ralph David Abernathy Boulevard and the southern end of taxi stand area. Specific locations will be designated by the Department of Planning and Community Development.
- b. **Locations 6-10, 6-11, 6-12, 6-13, 6-14 and 6-15.** The east side of Capital Avenue between Georgia Avenue and Fulton Street (**five** locations, one location reserved for a disabled individual, disabled veteran or blind person).

(7) District no. 7, West End. Locations 7-1, 7-2, 7-3, 7-4 and 7-5. The east side of Lee Street south of Ralph David Abernathy Boulevard (five locations, with two of these reserved for disabled individuals, disabled veterans or blind persons).

(8) District no. 8, Government Walk.

- a. **Locations 8-1 the west side of Butler Street, at the Georgia State MARTA Station entrance and, ~~8-2 the east side of Piedmont Avenue at the Georgia State Marta Station entrance~~ (two location reserved for a disabled individual, disabled veteran or blind person).**
- b. **Location 8-2.** The southwest side of Washington Street and Mitchell Street (one location).
- c. **Location 8-3.** The west side of Washington Street between Mitchell Street and Trinity Avenue (location reserved for a disabled individual, disabled veteran or blind person).
- d. **Locations 8-4 and 8-5.** The east side of Peachtree Street between Martin Luther King, Jr. Drive and Mitchell Street (two locations).

- e. ~~Locations 8-7 and 8-8. The west side of Spring Street in the Richard B. Russell Building Plaza (two locations).~~
- (9) District no. 9, Omni.
- a. ~~Location 9-1. The west side of Marietta Street between Spring Street and Fairlie Street (one location).~~
 - b. ~~Location 9-2. The northeast corner of Marietta Street and Cone Street (one location).~~
- (10) District no. 10, Auburn Avenue.
- a. Locations 10-1 and 10-2. The northeast corner of Auburn Avenue and Piedmont Avenue (two locations).
 - b. Locations 10-3 and 10-4. The northwest corner of Gilmer Street and Butler Street (two locations).
- (11) District no. 11, Ashby Street. Locations 11-1, 11-2, 11-3 and 11-4. The east side of Ashby Street from Harwell Street to Lena Street (four locations, with one location reserved for a disabled individual, disabled veteran or blind person).
- (12) District no. 12, Vine City. Locations 12-1, 12-2, 12-3 and 12-4. The northwest corner of Northside Drive and Carter Street (four locations).
- (b) **The exact placement of all vending locations shall be designated by the Department of Planning and Community Development.**
- (c) (1) Any vending location, whether currently occupied or unoccupied by a licensed vendor, that is temporarily removed from the list in subsection (a) for any reason shall not be assigned to another vendor during the temporary removal period.
- (2) If one or more new vending spaces are created within 150 feet of any temporarily removed space, the vendor assigned to the space so removed shall have the option to relocate to the new space closest to the temporarily removed space.

Section 4

That section 30-1409 be amended by deleting current section and inserting in lieu of the following:

- (a) **The Department of Planning and Community Development shall manage the vending program, as well as research and develop Uniform Design Standards for public vending stations throughout the city.**
- (b) **Vendors shall have the option to lease a vending cart from the city or utilize a cart that meets the specifications set out in the Uniform Design Standards.**

- (c) **The Uniform Design Standards shall state the specifications required for any vending cart that will be utilized to vend in the public right-of-way.**
- (d) The Uniform Design Standards shall state how specialized vending equipment requirements for chilling beverages, displaying merchandise such as garments, and performing services (such as seating for painting portraits or performing readings) shall be accommodated in the site plan and equipment design for food permits, merchandise permits, and service permits, without penalties to the vendors. For food and service permits, the design standards shall state how the designated vending station dimensions will be expanded/adjusted to service customer seating and space to move and store auxiliary accessory chilling cases/containers.
- (e) The Uniform Design Standards shall state how the **vendor** will provide weatherization protective coverings or protective weatherization finishes to carts.
- (f) The Uniform Design Standards shall state the process whereby the vendor will coordinate the replacement or repair of vinyl or other ornamental coverings, drapes for carts at minimal cost to the vendors.
- (g) The Uniform Design Standards shall state how the combined storage and display capacity of the equipment and station site are to be coordinated to meet the needs of vendors with food, merchandise, and service permits and their customers.
- (h) Enforcement. The enforcement of standards shall be conducted by the City of Atlanta Police Department or its designee.
- (i) Disabled individuals, disabled veterans, and blind persons shall continue to be exempt from payment of business license fees (as defined by O.C.G.A. 43-12-1), continue to have permit and **usage** fees waived, and thus be required to only pay a \$50.00 nonrefundable application fee and **any applicable leasing fee** to operate a vending business on public property.

Section 5

That section 30-1426 be amended by deleting current section and inserting in lieu of the following:

- (a) No person shall vend any article, merchandise, produce, permissible food item or service on a public space in the city without first having obtained a vending permit and satisfied all other requirements, including but not limited to those of the Fulton County health department. Vendors may sell class A produce, such as fresh fruits, vegetables and nuts in the shell, as long as such produce remains in its uncut, natural state pursuant to the Fulton County health department. No permit shall be required for persons selling newspapers at large other than from a fixed location on public space or on public streets. No permit shall be required for persons playing music in public, including but not limited to sidewalks, parks, or other public spaces, so long as payment by the audience or business owner is not required as a precondition for performing.

(b) **No person shall sell any article, merchandise, produce, permissible food item or service on a public space in the city without prior approval of the Vending Advisory Commission.**

(c) No person shall vend in the city on public space, except in conformity with the privileges granted for the particular class of permit issued to such person and only in the location stated on the permit. This permit is in addition to any general business license required or other special permission requirements.

(d) No person shall engage in the business or trade of vending without first obtaining a business license from the bureau of treasury, licensing and employee benefits. Disabled individuals, disabled veterans and blind persons, as defined by O.C.G.A. § 43-12-1, are exempt from payment of business license fees, but must obtain the licenses.

(e) All permits issued to vendors or registered agents are nontransferable. Surviving immediate family members of vendors shall be given an opportunity to apply for the permit holder's location with first preference if they apply within 60 days of the death of permit holder. Otherwise, assigned vending locations are nontransferable.

(f) There shall be no subleasing of any assigned vending site or location.

(g) No vendor shall be issued more than one permit per household pursuant to this section for any public space or assigned location or site for any one-year term. However, if two vendors who hold current permits become married to each other, each may maintain the respective permit after marriage takes place.

Section 6

That section 30-1428 be amended by deleting current section and inserting in lieu of the following:

(a) An application shall be required by all persons seeking issuance of a permit for vending on public property. Each applicant must apply in person and complete an application form. Application forms may be obtained from and filed with the department of police licenses and permits section.

(b) A nonrefundable application fee of \$50.00 is required which shall accompany each application for a vendor's permit. However, an individual applying for a combination vending permit need only submit one application.

(c) Permit fees for food, merchandise, service or combination permits are due and payable if and when the application is approved by the city.

(d) The application for a vendor's permit shall, at a minimum, consist of the following detailed data:

- (1) Applicant's name and current address.
- (2) Applicant's previous addresses within the last five years.
- (3) Social security number.
- (4) Type and classification of vendor permit sought.
- (5) Vending location sought, plus two alternatives, if applicable.
- (6) Size of the proposed vending station, if applicable, i.e., length, width and height.
- (7) **A list of merchandise, food, produce or service the applicant plans to offer for sale at the vending location.**

- (8) List of businesses with which applicant is affiliated.
 - (9) Federal tax I.D. number, if applicable.
 - (10) State department revenue retail I.D. number, if applicable.
- (e) **Disabled veterans shall not have to re-apply for their designated location, but shall submit annually a notarized statement stating that all information provided on the previous vending application is unchanged, along with all applicable fees. In the event that any information previously provided has changed, the disabled veteran will be required to re-apply for their designated location.**
 - (f) If such vendor's allocation of an assigned vending site or the site itself should be terminated or eliminated by the city or private initiative, the vendor assigned to the site shall be given first preference by the department of police in locating and being assigned a new or substitute site.

Section 7

That section 30-1429 be amended by deleting current section and inserting in lieu of the following:

- (a) **Completed applications for the permits required under this division, together with the nonrefundable application fee, shall be accepted by the department of police licenses and permits section on the dates announced by the department of police licenses and permits section.**
- (b) **Current permit holders must notify the department of police licenses and permits section whether they intend to remain at the same location no later than 90 days prior to the expiration of their vending permit.**
- (c) **No incomplete application will be accepted.**
- (d) **The department of police licenses and permits section will conduct a background check on each applicant within two weeks.**
- (e) **Those applicants who do not pass the background check pursuant to section 30-1434 will be notified that their application has been denied and that application will not be processed further.**
- (f) **Successful applicants will be notified that their application has been accepted and that they are required to return a "Vending Site Selection Form" that shall be included with the notification. The Vending Site Selection Form must be returned, via first class mail only, postmarked no earlier or later than the dates designated by the department of police licenses and permits section. Forms received postmarked prior to or after the designated dates will not be processed.**
- (g) **Each completed Vending Site Selection Form received within the designated dates shall be time stamped, which will include the month, day and year along with the time of day received.**
- (h) **Each successful applicant who has returned the Vending Site Selection Form within the designated dates will be placed on a master list in the order that**

their forms were received. Such list will be used to determine the order of selection for all available vendor locations.

- (i) Successful applicants will be notified as to the date, time and place the department of police license and permit section that site selections will be made. Selections will only be made on the date announced in advance as vendor site selection day.
- (j) If applicant or the applicant's representative is unable to appear, the applicant's space will be forfeited and the applicant's name will be placed at the bottom of the waiting list.
- (k) If an applicant who has been assigned a location fails to acquire a vending permit within 10 days of assignment, including the payment of applicable fees, the vending location will be offered to the next available successful applicant on the waiting list. If that applicant fails to acquire a vending permit within five business days of the offer, the vending location will be offered to the next available successful applicant on the waiting list. This process will be repeated until a successful applicant has acquired a vending permit.

Section 8

That the following shall apply only to the vending site selection process for the 2004:

- (a) All successful applicants who paid for and received a vending permit any two years from 1990 through 2003 shall be placed on a historic vendor master list, which shall be distinguished from the general master list described in section 30-1429(g), in the order that their Vending Site Selection Form was received.
- (b) Successful applicants who appear on the historic vendor master list will be notified as to the date, time and place the department of police license and permit section that site selections will be made. Selections will only be made on the date announced in advance as historic vendor site selection day.
- (c) The historic vendor site selection process shall occur prior to the general site selection process as set forth in section 30-1429.
- (d) If the applicant is unable to appear, the applicant's opportunity to select a site will be forfeited and the applicant's name will be placed on the general master list in the order that their form was received.

Section 9

That section 30-1430 be amended by deleting current section and inserting in lieu of the following:

- (a) **A permit for vending on public property shall be issued for a term of one year.**

- (b) Every vendor who seeks to renew a permit to vend in the public right of way must also renew their city business license.
- (c) Current permit holders may opt to vend from the same vending location. Permit holders who select to vend from the same location, designated on their previous permit, must successfully complete the application process to do so. Notwithstanding this selection, all permit holders who seek to renew their permit must annually submit an application for a permit to vend in the public right of way.
- (d) Each vendor may have only two assistants working in the vendor's location at the same time.
- (e) Each vendor will be provided two vendor's assistant badges by the department of police licensing and permitting section. All assistants must be in possession of a vendor's assistant badge when they are working at the vendor's location.
- (f) Each vendor shall be responsible for the on-site activities of the vendor's assistant.
- (g) Each vendor shall have at least a one million dollar general liability insurance policy identifying the City of Atlanta as an insured party. A copy of the certificate of coverage must be proved to the Atlanta Police Department licenses and permits section within 30 days of location assignment.
- (h) Each and every vendor shall comply with any and all amendments made to the city's vending code. Any and all vendors who accept a permit to vend on public property in the city thereby acknowledge and agree to the terms set forth herein. Refunds of fees paid for vending permits shall be made in the event that a vendor chooses not to vend due to legislative amendments on a pro-rata basis.
- (i) During the months of April through October, the permit of a vendor who fails to utilize an assigned vending location five consecutive days may be revoked upon a hearing before the Vending Advisory Commission.

Section 10

That section 30-1431 be amended by deleting current section and inserting in lieu of the following:

- (a) Permit fees are due and payable by certified check, cashiers check or money order after approval of the vending application. A vending permit shall not be issued prior to payment of the fees. Permit fees for vending shall be as follows:

Type of Permit	Annual Permit Fee
Merchandise permit	\$150.00
Food permit	150.00

Temporary permit*	150.00
Combination permit	250.00
Services permit	50.00
Assistant vendors	30.00

* This permit is for the disabled veteran locations that may not be assigned permanently to anyone other than a disabled individual, a disabled veteran or a blind person. If a vendor who is not a disabled veteran applies for and gets assigned one of these locations, it must be with the understanding that the location is temporary, contingent upon a disabled veteran successfully applying for and being assigned the location. The vendor shall receive a pro rata share of the permit fee paid should the location be reassigned to a disabled veteran.

- (b) **In addition to permit fees, all vendors shall pay a quarterly usage fee of \$100.00 due and payable by certified check, cashiers check or money order. Failure to remit this fee shall result in the suspension, revocation or denial of the vending permit.**
- (c) **All vendors who lease a vending cart from the city shall be required to pay a leasing fee, the amount of which shall be determined by the Department of Planning and Community Development.**
- (d) Permit and **usage** fees will be waived for disabled individuals, blind persons and disabled veterans. They are only required to pay the nonrefundable application fee of \$50.00 **and any applicable leasing fee.**
- (e) The fee for a replacement vending permit photo identification card that has been lost shall be \$30.00 and may be obtained at the department of police license and permit section.
- (f) Fees for renewal permits shall be the same as those fees for new permits.

Section 11

That section 30-1435 be amended by deleting current section and inserting in lieu of the following:

- (a) A suspension, revocation or denial of a permit issued under this division may be appealed to **Vending Advisory Commission** within 20 days of the applicant or permit holder's receipt of notice as described in section 30-1435(b).
- (b) Notice of the suspension or revocation shall be given in writing, setting forth the complaint; the grounds for suspension or revocation; and the time, date and place of the hearing. Such notice shall be mailed to the vending permit holder at least five calendar days prior to the date set for the hearing. The notice shall be mailed to the address shown on the application by registered or certified mail.

(c) No adverse action shall be taken regarding any permit pursuant to this article until and after notice has been provided and a hearing has been held before the vending advisory commission to determine just cause for such action.

(d) The vending advisory commission shall conduct the hearings and report its conclusions and recommendations to the mayor. The mayor, upon receiving the report, may, within 60 days, deny applications for new licenses and may revoke, suspend or refuse to renew any license. In lieu of suspension, revocation or the failure to renew, the mayor may impose a fine upon any vehicle immobilization service or operator, such fine not to exceed \$1,000.00 for each violation of this article. The decision of the mayor may be appealed to the Fulton County Superior Court by filing a writ of certiorari.

Section 12

All ordinances or parts of ordinances in conflict herewith are hereby repealed.